



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR - 1 2010

OFFICE OF
AIR AND RADIATION

The Honorable Rick Perry
Governor of Texas
Post Office Box 12428
Austin, Texas 78711

Dear Governor Perry:

Thank you for your letter of December 9, 2009 to Administrator Jackson concerning the disclosure of emails from the Climatic Research Unit of the University of East Anglia (CRU) and the potential economic impacts of actions the U.S. Environmental Protection Agency (EPA) is taking under the Clean Air Act to address the threat of climate change. I am pleased to respond on her behalf.

On April 2, 2007, the United States Supreme Court held that the term "air pollutant" in the Clean Air Act includes greenhouse gas emissions, which "fit well within the Clean Air Act's capacious definition[.]" *Massachusetts v. EPA*, 549 U.S. 497, 528-29 (2007). In the words of the Court, "On its face, the definition embraces all airborne compounds of whatever stripe, and underscores that intent through the repeated use of the word 'any.' Carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons are without a doubt 'physical [and] chemical ... substance[s] which [are] emitted into ... the ambient air.' The statute is unambiguous." *Id.* at 532.

In its decision, the Supreme Court directed the Administrator to answer the endangerment question posed by a now ten-year-old rulemaking petition for vehicle greenhouse gas standards under section 202(a) of the Act. *Id.* at 534-35. The Court wrote that the Agency could not decline to make the endangerment determination unless "the scientific uncertainty is so profound that it precludes EPA from making a reasoned judgment as to whether greenhouse gases contribute to global warming[.]" *Id.* at 534. The Court also made clear that the Administrator was not permitted to consider policy judgments, such as international negotiation strategy, that "have nothing to do with whether greenhouse gas emissions contribute to climate change. *Id.* at 533.

In response to the *Massachusetts v. EPA* decision, EPA took the action mandated by the Supreme Court by undertaking a comprehensive and transparent review of the current science. The scientific evidence of the cause and effects of climate change that EPA considered included

numerous independent datasets and hundreds of papers published in peer-reviewed literature. Taken together, this evidence presented an overwhelming case that human activities are significantly contributing to dangerous climate change.

A deliberate, public, and transparent process of the sort that EPA has employed for its actions to date is critical to EPA's efforts to reduce emissions of harmful greenhouse gases in a way that provides lasting benefits to the health of our nation and our economy. For the endangerment finding, EPA published an Advanced Notice of Proposed Rulemaking (ANPR) in July 2008, a Notice of Proposed Rulemaking (NPR) in April 2009, and a Final Endangerment and Cause and Contribute Finding in December 2009. The ANPR had a 120-day comment period during which we received over 200,000 public comments; the NPR had a 60-day comment period during which we received over 380,000 public comments. In preparing the final rule, the Agency considered the public comments we received. The final endangerment finding was also reviewed by all federal agencies with an interest in this issue. EPA is committed to continuing this type of open, transparent, public process in our other rulemakings.

Before Administrator Jackson signed the final endangerment finding, the EPA also carefully considered the disclosure of emails from the Climatic Research Unit (CRU) of the University of East Anglia. EPA scientists responsible for assembling the scientific record reviewed many of the emails themselves. Based on that review, the Agency weighed the potential implications of the emails and concluded that they do not alter our current understanding of the state of climate change science as reflected in the scientific record for the endangerment determinations. Thanks to that review and because the substantive issues to which the CRU email pertained had already been raised by commenters, EPA addressed the specific substantive issues to which the CRU emails were related, as well as other technical issues relating to climate change data and analyses, in the response to comments document that accompanied the final endangerment determination, which can be found at <http://www.epa.gov/climatechange/endangerment.html>.

Finally, after EPA had completed a thorough review of the scientific literature, had issued a detailed proposal, and had received and reviewed over 580,000 public comments, Administrator Jackson reached the well-documented conclusion that an overwhelming case had been made that greenhouse-gas pollution does endanger the health and welfare of the American public.

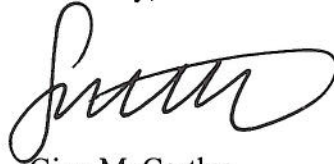
In your letter, you also express concern that EPA regulation of greenhouse gas emissions will impose massive cost on U.S. jobs and our economy. Let me assure you that the regulations establishing light-duty vehicle greenhouse gas emission standards and Prevention of Significant Deterioration permitting of large source greenhouse gas emissions will be written and implemented in ways that reflect Administrator Jackson's on-going commitment to exercising existing statutory authority in a common sense manner that enhances the U.S. economy's potential for and job creation. EPA recognizes both the importance of the endangerment finding and the need for the U.S. economy to regain sound footing.

As the Administrator often points out, clean energy is essential for establishing a strong, sustainable foundation for future U.S. economic growth. We understand the need to protect and

create jobs, and we look for opportunities to both reduce emissions and create incentives for clean energy and manufacturing job growth in the U.S.

Again, thank you for your letter. If you have any further questions, please contact me or your staff may call Sarah Hospodor-Pallone in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-7178.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gina McCarthy', with a large, stylized initial 'G'.

Gina McCarthy
Assistant Administrator